



# PUNISH THEM

with the like of that

## WITH WHICH YOU WERE AFFLICTED...

In the name of Allah, the Most Beneficent, the Most Merciful. **"O you who have believed, prescribed for you is Al-Qisâs [legal retribution] for those murdered - the free for the free, the slave for the slave, and the female for the female."** [Al-Baqarah 2:178].

Similarly, in another verse the Lord says, **"And those who, when an oppressive wrong is done to them, they take revenge. The recompense for an evil is an evil like thereof, but whoever forgives and makes reconciliation, his reward is due from Allah. Verily, He likes not the Zalimun (oppressors, polytheists, and wrong-doers, etc.). And indeed, whosoever takes revenge after he has suffered wrong, for such there is no way (of blame) against them. The way (of blame) is only against those who oppress men and wrongly rebel in the earth, for such there will be a painful torment. And verily, whosoever shows patience and forgives that would truly be from the things recommended by Allah."** [Ash-Shura 42: 39-43].

Here, Allah, the Lord of Glory, describes the characteristics of the believers and says that they take revenge when they are tyrannized. And they are not blamed for this. Qisâs is even called as life by Allah, the Exalted One. Allah says: **And there is for you in legal retribution [saving of] life, O you [people] of understanding, that you may become righteous** [Al-Baqarah 2:179]. Here, Allah the Almighty declares life in Al-Qisâs. it is difficult to live a peaceful life in a society where tyranny and injustice are rising and anytime the atmosphere becomes full of fear and uncertainty. People begin to bow before the tyrant and his determination grows and his injustice is encouraged as they stay quiet.

Therefore, Allah addresses the people of understanding and stresses on the importance of Qisâs, for this is the commandment in implementation of which is a prosperous life.

After emphasizing the obligation of Qisâs and the importance of its implementation, we move on to our main topic: Is the act of burning disbelievers with the fire permissible or not?

Before we give proofs from Quran and Sunnah and get into the



details and discrepancies of this matter, we would mention some principles so that this topic is easy to understand. In Shari'ah, it is necessary to take into account the "general and specific" and "the able" and the "non-able", otherwise the person will fall prey to discrepancies and go astray.

For example, the Prophet (PBUH) forbade killing children, women and the elderly from amongst the Kuffar in various ahadith. Despite this, it is found in some of the ahadith that he (PBUH) permitted them to be killed and such was done by the Prophet and his Companions. This is not as many ignorant people say, a contradiction between the hadiths, but it is necessary to keep in mind the "general" and "specific" aspects, and in same way, the ruling differs in cases of the "Able" and the "Non-Able". Similarly, in view of the "necessity" and the "expediency of jihad", many things become permissible which are not permissible under normal circumstances.

Now coming back to our topic, since there is a difference of opinion amongst the scholars on this issue, therefore in order to understand it, we have to go into detail. And as Shaykh Muhammad ibn Abd al-Wahhab (RA) said, **"When you see a difference of opinion then refer it back to Allah and His messenger. If the truth is then clear to you, then follow it"** [Ad-Durar as-Sunniyah].

So, first, we will try to understand this issue in the light of the Qur'an. Allah says in the Qur'an, **"Then whoever transgresses the prohibition against you, you transgress likewise against him. And fear Allah, and know that Allah is with Al-Muttaqûn"** [Al-Baqarah 2:194].

From this ayah we learn that if a Kâfir transgresses against the Muslims, then a Muslim can transgress against him in a similar way, just as if a Kâfir burns a Muslim with fire, then a Muslim can also burn that Kâfir with the fire. Imam al-Qurtubi (RA) writes in issue no. 7 in his tafseer of this ayah, **that there is no difference of opinion among the scholars that this verse is based on equity of Qisâs. The murderer should be killed in the same manner and with the same type of weapon he commits murder with.**

This is the opinion of the majority of the scholars, as long as the murderer didn't use an evil way to kill, such as by homosexuality or by alcohol, such person is to be killed with the sword. The Shaf'ia have two opinions in this matter, the guilty will be killed in a similar way. For instance, in case the murderer killed someone through homosexuality, a piece of wood will be made on this attribute and it will be thrown into his buttocks until he dies and he will be given water instead of alcohol till he gets killed. Ibn Majshun said that whoever kills with fire or poison will not be killed with it because Rasullallah (PBUH) is reported to have said, **"Nobody punishes with fire except Allah, and poison is the hidden fire."** But the majority of scholar's rule that he will be killed with it, that is, with fire and poison, because the ayâh is in general. Imam Qurtubi further writes in issue no. 8 that the correct religion belongs to the majority (of fuqaha).

In another ayah Allah says, **"And if you punish (your enemy, O you believers in the Oneness of Allah), then punish them with the like of that with which you were afflicted. But if you endure patiently, verily, it is better for As-Sabirin"** [An-Nahl 16:126].

So, it is clear from these two verses that the extent to which a Kâfir transgresses against a Muslim, the Muslim can transgress against him with the like.

We will now try to understand this matter in the light of Hadith. Imam Bukhari (RA) establishes a chapter in Kitab al-Jihad of his book Sahih Al-Bukhari: **"If a Mushrik burns a Muslim (with fire), should he be burnt (in retaliation)?"** Then within this chapter Imam Bukhari starts with the following hadith, "Narrated Anas bin Malik (RA): A group of eight men from the tribe of 'Ukil came to the Prophet (PBUH) and then they found the climate of Medina unsuitable for them. So, they said, "O Allah's Messenger (PBUH)! Provide us with some milk." Allah's Apostle said, "I recommend that you should join the herd of camels." So, they went and drank the urine and the milk of the camels (as a medicine) till they became healthy and fat. Then they killed the shepherd and drove away the camels, and they became disbelievers after they were Muslims. When the Prophet (PBUH) was informed by a shouter for help, he sent some men in their pursuit, and before the sun rose high, they were brought, and he had their hands and feet cut off. Then he ordered for nails which were heated and passed over their eyes, and they were left in the Harra (i.e., rocky land in Medina). They asked for water, and nobody provided them with water till they died (They had done similar with the shepherds and then received the like) [Sahih al-Bukhari 3018].

Imam Bukhari has used this hadith as a proof that a Kâfir can be burnt with fire in Qisâs for a Muslim. As it is mentioned in this hadith that they heated the nails and passed over their eyes causing them to burn. In the same way, 'Ali burnt some people who called him 'God' and this news reached Ibn 'Abbas, who said, **"Had I been in his place I would not have burnt them with fire, as the Prophet ((PBUH)) said, 'Don't punish (anybody) with Allah's Punishment.' No doubt, I would have killed them, for the Prophet ((PBUH)) said, 'If somebody (a Muslim) discards his religion, kill him.'"** [Sahih Bukhari Hadith 3017].

So, we see clearly from this hadith that even among the salaf there has been a difference of opinion on this matter. But the view adopted by the majority of fuqaha is the right one, as we cited Imam Qurtubi (RA) earlier. Let us now analyze the hadith in which the Prophet (PBUH) said that fire is something that only Allah can punish with fire. In this respect, some fuqaha say that the forbiddance referred to is not due to the act being absolute harâm.

And this is also proved by the fact that if it was an absolutely harâm act, then 'Ali would have never engaged in it since 'Ali himself was from the fuqaha among the Sahabah. He was

accompanied by many prominent Sahabah at the time but nobody warned him sternly, so he could not have committed any harâm act.

And speaking of Ibn Abbas' criticism, he did not point out that what 'Ali did was harâm but the hadith in which Ibn Abbas said that he would not do so was because 'Ali did not burn those zanâdiqa in Qisâs instead he burnt them because they were involved in Major Shirk. Had Ali burnt them in Qisâs, Ibn Abbas wouldn't have criticized him. So, we see, from this hadeeth as well that burning with fire is generally forbidden. That is, it is not permissible to burn under normal circumstances, but it is permissible to burn in Qisâs, which has been discussed above, and this is the position of the majority of fuqaha.

Now we turn to the Sahabah, who considered it appropriate to burn in revenge. This is the story of Abu Bakr as-Siddiq (RA) in reference to 'Tareekh at-Tabari.'

When some people fell victim to apostasy, Abu Bakr as-Siddiq (RA) sent a letter via a group of Muhajirêen and Ansâr and in this letter apostates and other common people were given dawah. And it was mentioned that whoever accepts that dawah and refrains from their evil actions and does good deeds, then accept them and cooperate with them, and whoever rejects it, then fight against them and leave none of them and burn them with the fire. Then, they were burnee with the fire, according to the orders of Abu Bakr as-Siddiq (RA). The scholars say that they were burned in Qisâs.

Similar is found in works of the prominent scholars from amongst the Ahnaaf. Imam Sarakhsi (RA) says: **"As for cities of Harbi [Kuffar], there is nothing wrong in flooding it with water or burning it with fire or firing catapults in it, even if there are children and Muslim prisoners or Muslim traders among them."**

Similarly, Imam Kasani has written in Bada'i' al-Sana'i': **"There is nothing wrong in burning their fortresses with fire, drowning them in water, dismantling and destroying them, or using catapult against them, for Allah says: 'They destroyed their dwellings with their own hands and the hands of the believers'".**

Also, all these actions are permissible because they are related to al-Qitâl where the real purpose is to break the power of the enemies, humiliate them and enrage them. And also, because the honor of al-Maâl [property & wealth] is due to the honor of the owner of the Maâl, if the lives of these [Kuffar] are not honored and that is why they are fought, so how can their Maâl be honored?

This is a brief description of the matter which is proven from the Qur'an and Sunnah and actions of the Salaf, but today, some critics and Jâhil (ignorant) people declare fatâwa of the Zalimûn and Khawârij on the Islamic State for acting upon the Quran and Sunnah with the understanding of salaf. May Allah save us from the deceptions of Shaytân and make our feet firm against the disbelieving forces.

